

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOHN J. HEUBUSCH,

Plaintiff,

v.

ORDER  
04-CV-962A

JO ANNE B. BARNHART, Commissioner of  
Social Security,

Defendant.

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The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On November 22, 2005, Magistrate Judge Scott filed a Report and Recommendation, recommending that the decision of the Commissioner be reversed and this matter be remanded for further administrative proceedings. The Magistrate Judge also recommended that defendant Commissioner's motion for judgment on the pleadings be denied and plaintiff's motion for similar relief in his favor be granted.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the decision of the Commissioner is reversed and this matter is remanded for further administrative proceedings. The Court also denies defendant Commissioner's motion for judgment on

the pleadings and grants plaintiff's motion for similar relief in his favor. The Clerk of Court shall take all steps necessary to close this case.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: December 16, 2005